

would, upon a proper application, be decreed to replace them, and if they be replaced at a less sum than that at which they were sold, he would be compelled to invest the surplus in the same stocks, to the same uses.

The loss occasioned by an improper investment, though it were made with the consent, or even at the *urgent request* of a party not *sui juris*, as an infant or married woman, will be visited upon the trustee, at the suit of such party.

In England, if a trustee, holding money in his hands, invest it in the English three per cents; he will always be protected, as the court will sanction when done that which, upon application, it would have ordered to be done.

In this state there is no favorite stock, as there is in England, for the investment of trust money, and there is, therefore, always some difficulty when the parties do not agree, in making a proper selection; and, consequently, there should be here more reluctance than in England in changing an investment made by the author of the trust.

If trustees have no power to change the investments, unless the instrument creating the trust, confers it upon them, the court should hesitate to give the power, unless impelled to do so by considerations of the most pressing character.

[The facts of the case, are fully stated in the opinion.]

THE CHANCELLOR :

In the will of the late Charles Feinour, dated the 5th of July, 1849, and proved on the 14th of August of the same year, is the following clause: "All the interest or dividends which shall grow due and payable on one hundred and three shares in the capital stock of the Marine Bank of Baltimore, one hundred and eighty-three shares in the capital stock of the Frederick Turnpike Road Company: on thirteen shares in the capital stock of the Union Manufacturing Company, fourteen shares in the capital stock of the Baltimore Fire Insurance Company, I give and bequeath unto Thomas Feinour, his heirs, executors and administrators, *in trust*, that the said Thomas Feinour shall suffer and permit Barbara Ann Murray, wife of Richard C. Murray, for her natural life, to hold and enjoy said last named grounds, property and premises, and the rents thereof to receive, free from the control of her present, or any future husband, and without being liable for his debts, and from and after her death, *in trust*, for all the children and descendants of the said Barbara Ann Murray, which she may then have living, to take *per stripes*, and not *per capita*, and